



**Bid Number: 05-X-37456**

**REQUEST FOR PROPOSAL FOR:**

**BULK FOOD ITEMS FOR SOUTHWOOD STATE PRISON**

Date Issued: 04/18/05

Purchasing Agency

State of New Jersey  
Department of the Treasury  
Division of Purchase and Property  
Purchase Bureau, PO Box 230  
33 West State Street  
Trenton, New Jersey 08625-0230

Using Agency

State of New Jersey  
Distribution & Support Services  
On behalf of  
Southwood State Prison  
215 Burlington Rd. South  
Bridgeton, New Jersey 08302

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## 1.0 INFORMATION FOR BIDDERS

### 1.1 PURPOSE AND INTENT

This Request for Proposal (RFP) is issued by the Purchase Bureau, Division of Purchase and Property, Department of the Treasury on behalf of the State of New Jersey.

The purpose of this RFP is to solicit bid proposals for various bulk food items, which will be made available and delivered directly to Southwood State Prison through Distribution & Support Services (DSS).

The intent of this RFP is to award (a) contract(s) to that (those) responsible bidder(s) whose bid proposals, conforming to this RFP is (are) most advantageous to the State, price and other factors considered.

The Standard Terms & Conditions, [Appendix 1](#) of this RFP, will apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in this RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise.

### 1.2 BACKGROUND

This is a reprocurement of the **Bulk Food Items** term contract that expired on **03/14/05**. The new contract effective date has been delayed to **06/01/05** to coincide with the Using Agency's summer menu.

### 1.3 KEY EVENTS

#### 1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD

It is the policy of the Purchase Bureau to accept questions and inquiries from all vendors by e-mail. Written questions should be e-mailed to the Purchase Bureau to the attention of the assigned Purchase Bureau buyer at the following address:

E- Mail: **[gary.gerstenacker@treas.state.nj.us](mailto:gary.gerstenacker@treas.state.nj.us)**

After the submission of bid proposals, unless requested by the State, contact with the State is limited to status inquiries only and such inquiries are only to be directed to the buyer. Any further contact or information about the proposal to the buyer or any other State official connected with the solicitation will be considered an impermissible supplementation of the bidder's bid proposal.

##### 1.3.1.1 QUESTION PROTOCOL

Questions should be e-mailed to the attention of the assigned buyer. Questions should be directly tied to the RFP by the writer. Questions should be asked in consecutive order, from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP page number and section number to which it relates.

##### 1.3.1.2 CUT-OFF DATE FOR QUESTIONS AND INQUIRIES

The cut-off date for questions and inquiries relating to this RFP is **ten (10) working days prior to bid opening date**. Addenda, if any, to this RFP will be posted to the Purchase Bureau website (see Section 1.4.1. of this RFP for further information.)

### 1.3.2 NOT APPLICABLE TO THIS PROCUREMENT

### 1.3.3 NOT APPLICABLE TO THIS PROCUREMENT

#### 1.3.4 NOT APPLICABLE TO THIS PROCUREMENT

#### 1.3.5 SUBMISSION OF BID PROPOSAL

In order to be considered for award, the bid proposal must be received by the Purchase Bureau of the Division of Purchase and Property at the appropriate location by the required time. **ANY BID PROPOSAL NOT RECEIVED ON TIME AT THE RIGHT PLACE WILL BE REJECTED. THE DATE, TIME AND LOCATION ARE:**

<b><u>DATE:</u></b>	<b>May 13, 2005</b>
<b><u>TIME:</u></b>	<b>2:00 PM</b>
<b><u>LOCATION:</u></b>	<b>BID RECEIVING ROOM - 9TH FLOOR PURCHASE BUREAU DIVISION OF PURCHASE AND PROPERTY DEPARTMENT OF THE TREASURY 33 WEST STATE STREET, P.O. BOX 230 TRENTON, NJ 08625-0230</b>  <b>Directions to the Purchase Bureau can be found on the following website:</b> <a href="http://www.state.nj.us/treasury/purchase/directions.shtml">http://www.state.nj.us/treasury/purchase/directions.shtml</a>

#### 1.3.6 DOCUMENT REVIEW

**“Not applicable to this procurement.”**

#### 1.4 ADDITIONAL INFORMATION

##### 1.4.1 REVISIONS TO THIS RFP

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum.

**ALL RFP ADDENDA WILL BE ISSUED ON THE PURCHASE BUREAU WEB SITE. TO ACCESS ADDENDA THE BIDDER MUST SELECT THE BID NUMBER ON THE PURCHASE BUREAU BIDDING OPPORTUNITIES WEB PAGE AT THE FOLLOWING ADDRESS:**

**[HTTP://WWW.STATE.NJ.US/TREASURY/PURCHASE/BID/SUMMARY/BID.SHTML.](http://www.state.nj.us/treasury/purchase/bid/summary/bid.shtml)**

There are no designated dates for release of addenda. Therefore interested bidders should check the Purchase Bureau "Bidding Opportunities" website on a daily basis from time of RFP issuance through bid opening.

**It is the sole responsibility of the bidder to be knowledgeable of all addenda related to this procurement.**

##### 1.4.2 ADDENDUM AS A PART OF THIS RFP

Any addendum to this RFP shall become part of this RFP and part of any contract awarded as a result of this RFP.

### **1.4.3 ISSUING OFFICE**

This RFP is issued by the Purchase Bureau, Division of Purchase and Property. The buyer noted in Section 1.3.1 is the sole point of contact between the vendor and the State for purposes of this RFP.

### **1.4.4 BIDDER RESPONSIBILITY**

The bidder assumes sole responsibility for the complete effort required in submitting a bid proposal in response to this RFP. No special consideration will be given after bid proposals are opened because of a bidder's failure to be knowledgeable as to all of the requirements of this RFP. By submitting a bid proposal in response to this RFP, the bidder represents that it has satisfied itself, from its own investigation, as to all of the requirements of this RFP.

### **1.4.5 COST LIABILITY**

The State assumes no responsibility and bears no liability for costs incurred by a bidder in the preparation and submittal of a bid proposal in response to this RFP.

### **1.4.6 CONTENTS OF BID PROPOSAL**

The entire content of every bid proposal will be publicly opened and will become a matter of public record. This is the case notwithstanding any statement to the contrary made by a bidder in its bid proposal. All bid proposals, as public records, are available for public inspection. Interested parties can make an appointment to inspect bid proposals received in response to this RFP by contacting the assigned buyer.

### **1.4.7 PRICE ALTERATION**

Bid prices must be typed or written in ink. Any price change (including "white-outs") must be initialed. Failure to initial price changes shall preclude a contract award being made to the bidder.

### **1.4.8 JOINT VENTURE**

If a joint venture is submitting a bid proposal, the agreement between the parties relating to such joint venture should be submitted with the joint venture's bid proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal. A separate Ownership Disclosure Form, Affirmative Action Employee Information Report, MacBride Principles Certification and business registration must be supplied by each party to the joint venture.

## 2.0 DEFINITIONS

### 2.1 GENERAL DEFINITIONS

The following definitions shall be part of any contract awarded or order placed as result of this RFP.

**Addendum** - Written clarification or revision to this RFP issued by the Purchase Bureau.

**Amendment** - A change in the scope of work to be performed by the contractor. An amendment is not effective until signed by the Director, Division of Purchase and Property.

**Bidder** – A vendor submitting a bid proposal in response to this RFP.

**Contract** - This RFP, any addendum to this RFP, the bidder's bid proposal submitted in response to this RFP and the Division's Notice of Acceptance.

**Contractor** - The contractor is the bidder awarded a contract.

**Director** - Director, Division of Purchase and Property, Department of the Treasury. By statutory authority, the Director is the chief contracting officer for the State of New Jersey.

**Division** - The Division of Purchase and Property.

**May** - Denotes that which is permissible, but not mandatory.

**Request for Proposal (RFP)** - This document, which establishes the bidding and contract requirements and solicits bid proposals to meet the purchase needs of [the] Using Agency[ies], as identified herein.

**Shall or Must** - Denotes that which is a mandatory requirement. Failure to meet a mandatory requirement will result in the rejection of a bid proposal, as materially non-responsive.

**Should** - Denotes that which is recommended, but not mandatory.

**State** - State of New Jersey

**Using Agency[ies] or Agency[ies]** - The entity[ies] for which the Division has issued this RFP.

### **3.0 COMMODITY DESCRIPTION/SCOPE OF WORK**

#### **3.1 DELIVERY REQUIREMENTS**

All deliveries for direct ship orders shall be within thirty (30) days ARO (after receipt of order). The bidder is to specify delivery time on the RFP cover sheet (page 3). Delivery time must be shown as days or weeks. Delivery time shown as "at once" or "as requested" will not be considered.

USDA inspection, grading, certification, and case stamping is required and must accompany each delivery as indicated in each line item description on the price lines.

The contractor shall provide, for each delivery, a packing slip showing the items being delivered and the Using Agency purchase order number. When a contractor delivers to a Using Agency, it shall obtain proof of delivery signed by an authorized employee of the receiving unit, location or Agency. This proof of delivery must accompany the contractor's invoice submitted for payment.

Prices submitted shall be net, FOB Destination, and shall include, where specified, platform (dock) delivery and inside delivery when Using Agency does not have dock facilities.

All products must conform in every respect to the standards and regulations established by Federal and New Jersey State laws.

Products shall be prepared, processed, packed, and packaged under modern sanitary conditions, in accordance with good commercial practice.

Products are to be packed in sizes as specified in the bid proposal and shall be packaged in such a manner as to ensure delivery in first class condition, and properly marked for identification.

All item sizes or weights listed in this RFP are minimum requirements. Evaluation will be based on the lowest cost per ounce as the most advantageous to the State where alternate offerings in packaging or weight/size of product are deemed to be acceptable. If no bidder offers the minimum size specified, evaluation will be based on the sizes offered.

All shipments must be comprised of original cartons associated with the commercial industry represented by the actual product contained within each carton. All deliveries containing re-used, re-labeled, re-worked or alternate cartons are subject to rejection at contractor's expense.

All weights referred to in the proposal are net weights.

All products are subject to final acceptance at point of delivery.

All items will be ordered by DSS for direct delivery into South Woods State Prison. Purchase orders issued by DSS will establish delivery dates which will allow bidders a maximum 30 ARO (after receiving order) to make delivery.

Contractor carrier personnel shall be subject to and shall comply with all security regulations and procedures for South Wood Prison. This may include body and vehicle searches for contraband as well as prohibited items.

Contractor(s) must notify South Woods Prison twenty-four (24) hours prior to delivery. Failure to provide this advance notification may cause rejection of delivery at the contractor's expense. Contact name and number appear on each Purchase Order.

Any substitution must be approved by the Using Agency and/or DSS a minimum of seventy-two (72) hours prior to any delivery attempt. Any non-approved substitutions will be rejected upon delivery at the contractor's expense.

Bidders must indicate packaging where requested in bid line item descriptions. Deliveries must be made in packaging as awarded and may not be substituted without prior Ordering and/or Using Agency's Approval.

If deliveries cannot be affected within the stated time after receipt of order, DSS shall be advised immediately to permit purchase from another source. There will be no backordering, except upon specific approval from the DSS and/or Using Agency.

Brands delivered must be strictly in accordance with those bid upon and awarded.



### 3.2 FROZEN FOOD PRODUCTS

In addition to the above requirements, all frozen products shall be in a wholesome and sanitary condition with all cartons sealed at top and bottom and in sound condition at the time of delivery. Packaging must be in accordance with good commercial practices in order to protect the quality of the product and prevent freezer burn or dehydration. Shipments shall be made in mechanically refrigerated trucks with refrigeration unit operational and interior of the unit at 0 degrees Fahrenheit or below. All products to be delivered F.O.B. State of New Jersey, Southwoods State Prison, 215 Burlington Rd. South, Bridgeton, New Jersey, 08302.

### 3.3 CERTIFICATION

For all shipments (canned, dry or frozen) where a certificate (U.S.D.A.- U.S.D.C) is required, the certificate must arrive with the shipment or be in the possession of the Using Agency prior to delivery date. Official USDA Roll Stamping is also required on all shipments that require a USDA certificate. If the shipment arrives without the certificate, the shipment may be accepted, provided that the cases are officially stamped or rolled. This shipment will be placed "on hold" pending receipt of the certificate. Failure to provide the certificate within five (5) working days will result in the conditional acceptance being revoked and storage charges being assessed starting on the sixth (6) working day and continuing until the shipment is removed. Cash discount terms will be predicated on the date the delayed certification is received. All costs of inspection and certification will be paid by the contractor.

All canned items must be packaged in accordance with Federal Specification PPP-C-29G "Canned Subsistence Items, Packaging Of" with latest amendments.

Contractors awarded items which require USDA inspection and certification must forward copies of all specifications, terms and conditions and item descriptions from the original specifications to the entity which is preparing the item for inspection, certification and delivery. Failure to forward this information will delay USDA certification and in turn delay delivery to the Using Agency.

Products offered are to be in accordance with specifications and general requirements contained in this RFP. When Qualified Products List (QPL) are used, bidders may bid only the qualified brands or their bid proposal will not be considered. Other brands may be considered for future bids, upon testing and acceptance by the Using Agency. DSS Quality Assurance Unit will perform all Qualified Products List (QPL) testing and evaluation. Please contact the buyer on the front page of this bid proposal via e-mail for submitting samples for future considerations.

If the specifications permit "or approved equal" or a QPL list is not used, samples must be submitted within the time frame specified in the RFP.

### 3.4 UNLOADING TIME LIMIT

Once started, the unloading process may not extend beyond a four (4) hour time period due to palletization, re-palletization or re-working of pallets for removal of damaged goods. Partial acceptance or partial rejection may result after stated four (4) hour unloading period has expired.

Cases of 6/#10 cans must be palletized in 8 blocks, 7 high interlocking configuration before delivery can be accepted. Pallets in either incorrect block or non-interlocking configuration must be reworked by the carrier to acceptable standards before delivery will be accepted.

Cases other than 6/#10 cans must be configured with an interlocking block pattern which must be consistent throughout the load for like items. Stretch wrapping or taping is required for all palletized loads.

Palletized loads must be built as close to the maximum 51 inches for frozen product and 65 inches for non-frozen products without going over. Loads that do not conform to this requirement must be broken down, added to, or re-palletized as necessary before delivery can be accepted.

Standards for height & block patterns can be obtained by calling DSS and/or Using Agency prior to delivery.

### 3.5 SPECIAL INSTRUCTIONS

From time to time, DSS or the Using Agency may issue special shipping instructions to contractors which will supersede the basic requirements listed above. These special instructions will be relayed to the contractor at the time that order is place and may affect block patterns of carton markings.

### 3.6 CARTON (CASE) MARKING REQUIREMENT

3.6.1 Shipping cartons shall be marked in accordance with Federal Standard No. 123F as amended, and as modified by these terms and conditions.

3.6.2 All cartons must be plainly marked on any two sides, so that palletized cartons can be easily identified. As a minimum the following must be included:

3.6.2.1 Contents (item description)

3.6.2.2 State contract number

3.6.3 Cartons must comply with this requirement at time of delivery. No post delivery marking of cartons will be permitted at any Using Agency.

### 3.7 COMBINED DELIVERIES

3.7.1 Contractors are not to combine deliveries of items with various scheduled delivery dates, unless authorized by DSS and/or Using Agency.

3.7.2 Contractors who combine shipments without proper authorization, if accepted, will be assessed the difference in freight charges between separate shipments and combined shipments.

3.7.3 Any monies due the State will be deducted from the contractor's payment.

3.7.4 This request for bid proposal/contract involves items which are necessary for the continuation of ongoing critical state services. Any delay in delivery of these items would disrupt State services and would force the state immediately to seek alternative sources of supply on an emergency basis. Timely delivery is therefore critical to meeting the State's needs.

3.7.5 Since timely delivery is necessary to meet the State's needs, a bidder's previous delivery record will be a factor in making any award(s) on this request for proposal.

3.7.6 If there have been any late delivery complaints against your firm within the last calendar year, the bidder may be required to submit a letter with your bid documenting the steps you have taken to improve your deliveries on future contracts.

3.7.7 If the bidder fails to document these corrective steps, or if the proposed corrective steps are deemed unsatisfactory, the submitted bid may be considered non-responsive and may be rejected.

3.7.8 Specific delivery dates will no longer be indicated for each line item. When the actual purchase order is issued the specific delivery date(s) will be given.

### 3.8 CONTRACTOR RESPONSIBILITY

It is the responsibility of the contractor to forward copies of specifications, terms & conditions and item descriptions for all awarded items to any packer, manufacturer or USDA/FDA inspectors. Failure to provide proper specifications, T & C's and descriptions by any distributor under contract may result in the rejection of unacceptable product at their expense.

### 3.9 CONTRACT AMOUNT/QUANTITIES

The quantities shown on the price line sheets are a estimate only. The State of New Jersey shall not be bound to any minimum or maximum total amount of product purchased from the contract(s) awarded as a result of this solicitation. The contract(s) shall be for the actual amount ordered during the contract period.

### 3.10 PRICE AND CONTRACT

Prices submitted shall be net, FOB Destination and be subject to no increase during the period of the contract. Escalation clauses are not acceptable.

### 3.11 METHOD OF PAYMENT

Contractors will receive Purchase Orders from and submit invoices for payment to DSS for all purchase deliveries from these contracts.

### 3.12 SPECIFICATION FOR INSTANT DRY MIX CHEDDAR CHEESE SAUCE

STATE OF NEW JERSEY

REVIEWED APRIL, 2000

#### 3.12.1 SCOPE

This specification covers instant powdered Cheddar Cheese Sauce dry mix packed in commercially acceptable fifty (50) pound bags. The minimum yield must be one (1) gallon of finished cheese sauce per two (2) pounds of dry mix.

#### 3.12.2 SALIENT CHARACTERISTICS

##### 3.12.2.1 Ingredients

The primary ingredient must be Cheddar powder, which shall be comprised from real cheddar cheese solids, pasteurized milk, cheese cultured, salt and enzymes. The real cheddar cheese solids shall have been derived from a process that complies with 21 CFR 133.113 for cheddar cheese.

All ingredients must be prepared from wholesome raw materials and the cheese sauce dry mix shall be produced under sanitary conditions and in full compliance with FDA requirements regarding Good Manufacturing Practices and Hygiene. Optional ingredients include, but not limited to, are listed as follows: whey, protein concentrate, butter, buttermilk, buttermilk solids, salt, natural flavoring, modified food starch, maltodextrin, nonfat dry milk, corn syrup solids, yeast extract, tricalcium phosphate, lactic acid, emulsifiers, citric acid, disodium inosinate, disodium guanylate, spices, and FD &C yellow #5 and #6.

No imitation cheese powders are allowed within the ingredients. No monosodium glutamate is permitted within the formulation.

##### 3.12.3 Processing

The cheese sauce dry mix provided within this specification must not be processed or manufactured utilizing any pork, pork by products, or pork- derived enzymes.

##### 3.12.4 Shelf Life

The product must possess a minimum shelf-life of 12 months stored under proper dry storage conditions within a warehouse.

##### 3.12.5 Chemical and Physical Requirements:

3.12.5.1 Total Fat Content: The cheese sauce dry mix shall contain minimum of 15.0 % total fat.

3.12.5.2 Total Moisture Content: The dry mix shall have a maximum moisture content of 7.0%.

3.12.5.3 Total Solids: The total solids content after dilution must be a minimum of 10.0%.

3.12.5.4 Salt Content: The cheese sauce dry mix shall contain a maximum of 5.0% salt, NaCl.

3.12.5.5 Protein Content: The dry mix must contain a minimum of 10.0% of protein.

3.12.5.6 pH: The pH after dilution, must have a value in the range between 5.0 and 7.0.

3.12.5.7 Viscosity: The finished product must possess a viscosity of 3500CPS minimum performed on Brookfield Model RVF, Spindle #27, 150 deg. f, 20 RPM, 10 minutes.

Organoleptic Properties:

3.12.5.8 Materials: The cheddar cheese sauce dry mix must be processed and packaged under sanitary conditions and the finished product must possess a texture typical of cheese sauce and a pleasing cheddar cheese flavor.

3.12.5.9 Color: The finished cheese sauce must have a uniform, bright, attractive appearance. It shall have a medium yellow-orange color

3.12.5.10 Flavor, Odor, and Palatability: The finished cheese sauce shall possess a pleasant cheddar cheese flavor and aroma. The odor must be free from undesirable or rancid flavors and odors.

The product must comply with the following palatability standard. The product must register a score of 7.00 or above on the Hedonic Scale of 1.00 through 9.00.

3.12.5.11 Texture: The finished product must display a uniform color and a smooth texture. The product must be free from lumps and/or foreign particles.

3.12.6 Packaging:

3.12.6.1 Preservation, packaging, package, labeling, and case marking: The preservation, packaging, packing, labeling, and case markings must be as specified in the solicitation, contract, or purchase order.

3.12.7 Regulatory Requirements:

The delivered cheese sauce shall comply with all applicable Federal and State mandatory requirements and regulations relating to the preparation, packaging, labeling, storage, distribution, and sale of cheddar cheese sauce dry mix within the commercial marketplace. Delivered product shall comply with all applicable provisions of the Federal Food, Drug, and Cosmetic Act and regulations promulgated there under. The bidder must follow instructions contained in this RFP and on the bid cover sheet in preparing and submitting its bid proposal. The bidder is advised to thoroughly read and follow all instructions.

### 3.13 SPECIFICATION FOR FROZEN CHICKEN TENDERS

State of New Jersey

Revised December, 2003

3.13.1 Scope

This specification describes frozen, raw chicken tenders or strips intended for institutional food service operational use.

3.13.2 Weight

The individual chicken tender strips must weigh in a range from 0.75 ounces to 1.50 ounces. The chicken tenders shall be frozen and packaged in 4/10 lb. polyethylene bags per 40 lb. master case.

3.13.3 Salient Characteristics

The chicken tenders shall be boneless and skinless. The product shall have been produced by separating the inner pectoral muscle from the breast and the sternum. The protruding portion of the tendon is removed producing the single intact muscle tenderloin with tendon clipped. The tenderloins shall originate from broiler/fryer chickens, which have been produced, raised, and processed in the United States, or its territories and possessions. The slaughtering, eviscerating, and processing of chickens; preparation, formulation; cooking; individually frozen and frozen (temperatures) shall be in accordance with the USDA Food Safety and Inspection Service (FSIS), Meat and Poultry Inspection Regulations (9 CFR Part 381). The chicken tenders must have been processed, packaged, and frozen in a USDA-FSIS approved plant and all individual deliveries to the State must arrive no more than 60 days after final processing. All products shall be in good condition at time of shipment. The frozen chicken tenders (after being frozen, at time of shipment, and during transportation) shall be held at a temperature of not higher than 0 degrees F.

### 3.13.4 Processing

The chicken products shall be prepared in accordance with good commercial practice (21 CFR Part 110). The broiler/fryer chickens shall be processed subsequent to the date of the contract. The chickens shall be eviscerated warm followed by immediate chilling of the eviscerated chicken parts. Not more than 24 hours shall elapse between the time the chicken is chilled and the start of processing.

The tenderloins with tendon clipped shall be processed into strips with approximate dimensions of ½ inches thickness, ¾ inches width, and 3 inches length. The chicken tenders finished product must be reasonably uniform in size and shape. The product strips shall then be frozen by a method in accordance with the FSIS requirements. The finished product must be frozen in a manner that will minimize individual pieces from sticking together after they are packaged and packed.

### 3.13.5 Metal Detection

All finished product must be examined by a metal detection device capable of detecting metals that may be present in the product. The metal detection device shall be accepted by FSIS, and the procedures used shall be appropriate for the depth of the detection field of the device and the sensitivity of the device. The examination shall be by (a) presenting the product in its smallest dimension (thickness) within the detection field of the device, and (b) examining the product prior to packaging, or after packaging, or in a shipping container. The contractor will test the metal detection device by methods applicable to the device, under the supervision of USDA. The frequency of testing will be according to the Poultry Division's online procedures. These guidelines do not relieve the contractor of its responsibility to provide a safe product. Any product suspected of containing or found to contain metal will be handled according to and the disposition of the product determined by FSIS procedures.

### 3.13.6 Finished Product Requirements

#### 3.13.6.1 Net Weight

The net weight of the individual tender strips shall be between 0.75 ounces and 1.50 ounces.

#### 3.13.6.2 Foreign Material

The finished product shall be wholesome and not adulterated, which encompasses all forms of foreign materials and contamination.

#### 3.13.6.3 Defects

The product must be entirely boneless and skinless. The chicken tenders shall be free of bones, cartilage, tendons, bruises, blood clots, and all areas of discoloration.

#### 3.13.6.4 Chemical Analyses

The final product chicken tenders shall comply with the following chemical analyses requirements:

Test	Requirement
Fat Content	4.0 % maximum
Protein Content	20 % minimum
Salt Content (NaCL)	0.35 % maximum
Sodium Content (mg. per 100g. product)	130 mg. maximum

#### 3.13.6.5 Bacteriological Analyses

The final product must comply with the following bacteriological analyses requirements:

Test	Requirement
Standard Plate Count	< 50,000 CFU per gram
Salmonella	Negative

### 3.13.6.6 Analytical Testing Methods

All testing methods shall be made in accordance with the latest edition of the Official Methods of Analysis of the AOAC International.

### 3.13.6.7 Packaging/ Labeling

The finished product must be packaged 4/10 lb. polyethylene bags per master case. The product must be enclosed in vapor and moisture proof polyethylene plastic bags within commercially acceptable corrugated cartons. Each master carton must contain a minimum net weight of 40 lbs.

The master case must display the manufacturers standard product code label with the brand, model number, and ingredients listed. The label shall also list the net weight. An official USDA plant number insignia must also appear on the label.

### 3.13.6.8 Shelf-Life

The finished product must possess a minimum shelf-life of 12 months stored at temperatures of 0 degrees F.

## 3.14 SPECIFICATION FOR COOK / CHILL POLYETHYLENE CASING, NON-SHRINKABLE, 10" X 30"

### Salient Characteristics:

The casings furnished under this description shall be fabricated from non-shrinkable, multi-layer, linear low-density polyethylene. The casings must be designed for use in a food-processing type of operation. The casings must also be pre-clipped on one end utilizing standard metal clips.

### Material:

The material shall consist of a multi-layered, linear low density polyethylene conforming to all applicable FDA food-grade material standards. The thickness of the material shall be a minimum of 4.5 mils (0.0045"). The polyethylene must comply with the following table of requirements:

Test	Requirement	Test Method
Tensile Strength:		
Machine Direction(psi)	5600 min.	ASTM D882
Transverse Direction(psi)	5400 min.	
Elongation %:		
Machine Direction	700 % min.	ASTM D882
Transverse Direction	700 % min.	
Gloss, HU(45deg.)	65 min.	ASTM D2457
Haze (%)	20 % max.	ASTM D1003
Permeability:		
to Oxygen (23 deg. C, 0% R.H.):		
cc/100 sq.in./24 hr./atm	2.0 max.	ASTM D3985
to Water Vapor (38 deg. C):		
g/100 sq.in./24 hr.	0.2 max.	ASTM F1249

### Temperature Resistance:

The polyethylene must be temperature resistant. It must withstand temperatures as low as -30 deg. F and as high as 225 deg. F.

### Size:

10" x 30", +/- 1/8"

### Color:

The material must be clear in color.

**Workmanship:**

The casings shall be uniformly made, free from pinholes, tears, cuts, creases, wrinkles, sharp edges, burrs, scratches or any extraneous matter.

**Finish:**

There shall be no holes, pockets, or voids in the surface of the casing.

**Packaging, Packing, and Marking:**

The product shall be packaged containing 400 polyethylene casings per case. The case markings shall be as specified in the standard terms and conditions.

## **4.0 PROPOSAL PREPARATION AND SUBMISSION**

### **4.1 GENERAL**

The bidder must follow instructions contained in this RFP and on the bid cover sheet in preparing and submitting its bid proposal. The bidder is advised to thoroughly read and follow all instructions.

The first page (face) of this RFP shall be signed by an authorized representative of the bidder. However, if the bidder is a limited partnership, the first page (face) of this RFP must be signed by a general partner. If the bidder is a joint venture, the first page (face) of this RFP must be signed by a principal of each party to the joint venture. Failure to comply will result in rejection of the bid proposal.

Pricing and information sheets must be completed in their entirety. Failure to comply with this requirement may result in rejection of the bid proposal.

No changes or white outs will be permitted on the specification sheets, unless each change is initialed and dated in ink by the bidder.

### **4.2 PROPOSAL DELIVERY AND IDENTIFICATION**

In order to be considered, a bid proposal must arrive at the Purchase Bureau in accordance with the instructions on the RFP cover sheet. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of bid proposals. State regulation mandates that late bid proposals are ineligible for consideration. **THE EXTERIOR OF ALL BID PROPOSAL PACKAGES MUST BE LABELED WITH THE BID IDENTIFICATION NUMBER, FINAL BID OPENING DATE AND THE BUYER'S NAME.** (See RFP cover sheet).

### **4.3 NUMBER OF BID PROPOSAL COPIES**

Each bidder must submit **one (1) complete ORIGINAL bid proposal**, clearly marked as the "ORIGINAL" bid proposal. Each bidder should submit **one (1) full, complete and exact copy** of the original. The copies requested are necessary in the evaluation of the bid proposal. Bidders failing to provide the requested number of copies will be charged the cost incurred by the State in producing the requested number of copies. It is suggested that the bidder make and retain a copy of its bid proposal.

### **4.4 PROPOSAL CONTENT**

**The bid proposal should be submitted as follows:**

- **Forms (Section 4.4.1)**

CONTENTS	RFP SECTION REFERENCE	COMMENTS
Forms	<a href="#">Cover sheet</a>	Completed and signed cover sheet (Page 3 of this RFP)
	<a href="#">4.4.1.1</a>	Ownership Disclosure Form ( <a href="#">Attachment 1</a> )
	<a href="#">4.4.1.2</a>	MacBride Principles Certification ( <a href="#">Attachment 2</a> )
	<a href="#">4.4.1.3</a>	Affirmative Action Employee Information Report or New Jersey Affirmative Action Certificate ( <a href="#">Attachment 3</a> )
	<a href="#">Appendix 1 - 1.1 of the Standard Terms &amp; Conditions</a>	Business Registration from Division of Revenue

#### **4.4.1 FORMS**



#### 4.4.1.1 OWNERSHIP DISCLOSURE FORM

In the event the bidder is a corporation or partnership, the bidder must complete the attached Ownership Disclosure Form. A completed Ownership Disclosure Form must be received prior to or accompany the bid proposal. Failure to do so will preclude the award of a contract.

The Ownership Disclosure Form is attached as [Attachment 1](#) to this RFP.

#### 4.4.1.2 MACBRIDE PRINCIPLES CERTIFICATION

The bidder must complete the attached MacBride Principles Certification evidencing compliance with the MacBride Principles. Failure to do so may result in the award of the contract to another vendor.

The MacBride Principles Certification Form is attached as [Attachment 2](#) to this RFP

#### 4.4.1.3 AFFIRMATIVE ACTION

The bidder must complete the attached Affirmative Action Employee Information Report, or, in the alternative, supply either a New Jersey Affirmative Action Certificate or evidence that the bidder is operating under a Federally approved or sanctioned affirmative action program. The requirement is a precondition to entering into a State contract.

The Affirmative Action Forms are attached as [Attachment 3](#) to this RFP.

#### 4.4.1.4 BUSINESS REGISTRATION CERTIFICATE FROM THE DIVISION OF REVENUE

**FAILURE TO SUBMIT A COPY OF THE BIDDER'S BUSINESS REGISTRATION CERTIFICATE (OR INTERIM REGISTRATION) FROM THE DIVISION OF REVENUE WITH THE BID PROPOSAL MAY BE CAUSE FOR REJECTION OF THE BID PROPOSAL.**

The bidder may go to [www.nj.gov/njbgs](http://www.nj.gov/njbgs) to register with the Division of Revenue or to obtain a copy of an existing Business Registration Certificate.

Refer to Appendix 1, Section 1.1. of the Standard Terms and Conditions and Section 5.2 of this RFP for additional information concerning this requirement.

#### 4.4.1.5 EXECUTIVE ORDER 134

Refer to Section 5.38 of this RFP for more details concerning this requirement.

#### 4.4.1.6 SET ASIDE CONTRACTS

Not applicable to this procurement.

#### 4.4.1.7 BID BOND

Bid Bond not required for this RFP.

#### 4.4.1.8 PACKER AND BRAND INFORMATION:

The contractor must supply the following:

- Brand
- Model and/or Product Number
- Packer and/or Processor
- Season Pack
- U.S.D.A. Plant Number
- Or any information required on the price line sheets

Failure to supply this information may be cause for bid proposal rejection. Phrases such as "various packers" or "and others" or names of countries will not be acceptable and will be cause for bid proposal rejection.

#### 4.4.1.9 NUTRITIONAL DATA SHEETS

If requested by the State, the bidder must furnish nutritional data sheets within five (5) days from notification.

#### 4.4.2 SUBMITTALS

##### 4.4.2.2 BIDDER DATA SHEET

The bidder must provide all of the information requested. The bidder may provide its response on a separate attachment but should clearly note here that it is doing so:

1. Name of individual that may be contacted at all times if information, service, or problem solving is required by the Using Agency. This service shall be available at no additional charge.

**(PLEASE PRINT OR TYPE)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

2. Years of this individual's experience in servicing similar accounts: \_\_\_\_\_

3. Identify the similar accounts this individual has serviced:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

##### 4.4.2.3 REFERENCE DATA SHEETS - SATISFACTORY CUSTOMER SERVICE

The bidder must provide all of the information requested. The bidder may provide its response on a separate attachment but should clearly state here that it is doing so:

Supply the name(s) of present customers you are servicing for contracts of a similar size and scope to those required by this RFP.

1. Name of customer provided as reference:

1<sup>st</sup> individual: \_\_\_\_\_ Phone # of contact person: \_\_\_\_\_

2<sup>nd</sup> individual: \_\_\_\_\_ Phone # of contact person: \_\_\_\_\_

Length of time services provided by the bidder to this customer: \_\_\_\_\_

2. Name of customer provided as reference:

1<sup>st</sup> individual: \_\_\_\_\_ Phone # of contact person: \_\_\_\_\_

2<sup>nd</sup> individual: \_\_\_\_\_ Phone # of contact person: \_\_\_\_\_

Length of time services provided by the bidder to this customer:\_\_\_\_\_

3. Name of customer provided as reference:

1<sup>st</sup> individual:\_\_\_\_\_ Phone # of contact person:\_\_\_\_\_

2<sup>nd</sup> individual:\_\_\_\_\_ Phone # of contact person:\_\_\_\_\_

Length of time services provided by the bidder to this customer:\_\_\_\_\_

#### 4.4.2.4 MANDATORY CONTRACTOR DATA SHEET - TERMINATED CONTRACTS

The bidder must provide all of the information requested. The bidder may provide its response on a separate attachment but should clearly state here that it is doing so:

Provide a list of contracts, if any, your firm has been terminated from during the last three years along with the reason that your contract was terminated. List name of contact person and phone number of the firm, which terminated your firm's contract.

1. Name of Firm:\_\_\_\_\_

Contact Person:\_\_\_\_\_

Phone Number:\_\_\_\_\_

Reason for Termination:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Name of Firm:\_\_\_\_\_

Contact Person:\_\_\_\_\_

Phone Number:\_\_\_\_\_

Reason for Termination:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Name of Firm:\_\_\_\_\_

Contact Person:\_\_\_\_\_

Phone Number:\_\_\_\_\_

Reason for Termination:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### 4.4.2.5 SAMPLES/SAMPLE TESTING

Products offered must be in accordance with this RFP. Bid samples **for pricing lines #00003 through #00005, #00007, #00009 through #00011, #00013 through #00022, #00027 through #00033** for evaluation and testing purposes must be made available at no charge and delivered to DSS, Quality Assurance Unit at the bidder's expense. Bidders must, within 10 working days following a request from the State, submit bid samples to DSS, Quality Assurance Unit. Bid samples will not be returned. The DSS, Quality Assurance Unit will conduct laboratory tests to assure that the bid samples submitted **for the above mentioned pricing lines** conform to this RFP. The State reserves the right to perform any tests necessary to assure that the bid samples conform to this RFP **for the above mentioned pricing lines**. The testing results of the DSS, Quality Assurance Unit are final.

Products offered must be in accordance with this RFP. A Qualified Product List (QPL) is being used in this procurement **for pricing lines #00001, #00002, #00006, #00008, #00012, #00023 through #00026**. Bidders shall only bid a product on the QPL in response to this RFP. Any other submission will not be considered. A bidder offering a qualified brand may, at the State's option, be required to submit a bid sample for evaluation and testing. Bidders must, within 10 working days following a request from the State, submit a bid sample to DSS. A sample submitted will not be returned. DSS will test the sample to ensure that the sample conforms to the specifications and requirements. If the qualified brand sample fails, the State reserves the right to reject for award. Brands/models not on the current QPL may be considered for future reprocurments by contacting the buyer for this RFP. DSS will perform QPL testing and evaluation and determine whether such brand/model may be added to the QPL for the next reprocurement. Samples will not be returned. The testing results of the State are final.

##### Palatability Testing

The State reserves the right to perform palatability testing of bid samples and products delivered. A test panel is appointed by the Chief, DSS. Palatability testing will be supervised and conducted by DSS' Quality Assurance Unit. The Hedonic Scale Method of measuring food preferences will be used. Testing shall be conducted in an impartial atmosphere with a panel not informed of the brand names, vendors and manufacturers until the award recommendation is approved by the Director. If the testing involves a Qualified Product (QPL) and a proposed approved equal basis product, the QPL product will be used as the basis of comparison. In the event a product bid has been determined not to comply with the bid proposal specifications, that product shall not be eligible for contract award.

#### 4.4.2.6 FINANCIAL CAPABILITY OF THE BIDDER

If requested, the bidder shall provide proof of its financial capacity and capabilities to undertake and successfully complete the contract. To satisfy this requirement, the bidder shall submit a certified financial statement, including applicable notes, reflecting the bidder's assets, liabilities, net worth, revenues, expense, profit or loss and cash flow for the most recent calendar year or the bidder's most recent fiscal year; or if a certified financial statement is not available, then either a reviewed or compiled statement from an independent accountant setting forth the same information required for the certified financial statement. In addition, the bidder must submit a bank reference.

#### 4.4.2.7 DISCLOSURE OF INVESTIGATIONS/ACTIONS INVOLVING BIDDER

The bidder shall provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable,

#### 4.4.3 COST PROPOSAL

The bidder must submit its pricing using the State supplied price sheet(s) attached to this RFP. Failure to submit all information required will result in the bid being considered non-responsive. Each bidder is required to hold its prices firm through issuance of contract.

#### 4.4.4 METHOD OF BIDDING OR PRICE SHEETING INSTRUCTIONS, ETC.

The bidder may submit pricing for any one or more of the pricing lines and does not have to bid all pricing lines except for line items **#00015 through #00021** which is grouped as “all or none”. The bidder must submit pricing for all pricing lines in this group to be considered. Failure to do so will result in the rejection of its bid proposal for line items #00015 through # 00021.

## 5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS

### 5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS

The contract awarded as a result of this RFP shall consist of this RFP, addendum to this RFP, the contractor's bid proposal and the Division's Notice of Award.

Unless specifically stated within this RFP, the Special Contractual Terms and Conditions of the RFP take precedence over the Standard Terms and Conditions [Appendix 1](#) of the RFP.

In the event of a conflict between the provisions of this RFP, including the Special Contractual Terms and Conditions and the Standard Terms and Conditions, and any Addendum to this RFP, the Addendum shall govern.

In the event of a conflict between the provisions of this RFP, including any Addendum to this RFP, and the bidder's bid proposal, the RFP and/or the Addendum shall govern.

### 5.2 BUSINESS REGISTRATION

The following shall supplement the Standard Terms and Conditions pertaining to Business Registration set forth in, Appendix 1, Section 1.1.

"Affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. An entity controls another entity if it owns, directly or individually, more than 50% of the ownership in that entity.

"Business organization" means an individual, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof;

"Business registration" means a business registration certificate issued by the Department of the Treasury or such other form or verification that a contractor or subcontractor is registered with the Department of Treasury;

"Contractor" means a business organization that seeks to enter, or has entered into, a contract to provide goods or services with a contracting agency;

"Contracting agency" means the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, or any independent State authority, commission, instrumentality or agency, or any State college or university, any county college, or any local unit; with respect to this Contract, the contracting agency shall mean the Division;

"Subcontractor" means any business organization that is not a contractor that knowingly provides goods or performs services for a contractor or another subcontractor in the fulfillment of a contract.

A bidder shall submit a copy of its business registration at the time of submission of its bid proposal in response to this RFP.

A subcontractor shall provide a copy of its business registration to any contractor who shall forward it to the contracting agency. No contract with a subcontractor shall be entered into by any contractor unless the subcontractor first provides proof of valid business registrations.

The contractor shall provide written notice to all subcontractors that they are required to submit a copy of their business registration to the contractor. The contractor shall maintain a list of the names of any subcontractors and their current addresses, updated as necessary during the course of the contract performance. The contractor shall submit to the contracting agency a copy of the list of subcontractors, updated as necessary during the course of performance of the contract. The contractor shall submit a complete and accurate list of the subcontractors to the contracting agency before a request for final payment is made to the using agency.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State.

This paragraph shall apply to all contracts awarded on and after September 1, 2004

### 5.3 CONTRACT TERM AND EXTENSION OPTION

The term of the contract shall be for a period of **six (6) months**. The anticipated "Contract Effective Date" is provided on the cover sheet of this RFP. If delays in the procurement process result in a change to the anticipated Contract Effective Date, the bidder agrees to accept a contract for the full term of the contract. The contract may be extended for all or part of **the six (6) month** period, by the mutual written consent of the contractor and the Director. Purchase orders may be placed against the contract up to and including the end of business on the last day of the contract, for delivery no more than 45 days after contract expiration.

### 5.4 CONTRACT TRANSITION

In the event that a new contract has not been awarded prior to the contract expiration date, as may be extended herein, it shall be incumbent upon the contractor to continue the contract under the same terms and conditions until a new contract can be completely operational. At no time shall this transition period extend more than **ninety (90)** days beyond the expiration date of the contract.

### 5.5 AVAILABILITY OF FUNDS

The State's obligation to pay the contractor is contingent upon the availability of appropriated funds from which payment for contract purposes is made. No legal liability on the part of the State for payment of any money shall arise unless funds are made available each fiscal year to the Using Agency by the Legislature.

### 5.6 CONTRACT AMENDMENT

Any changes or modifications to the terms of the contract shall only be valid when they have been reduced to writing and signed by the contractor and the Director.

### 5.7 PROCEDURAL REQUIREMENTS AND AMENDMENTS

5.7.1 The contractor shall comply with procedural instructions that may be issued from time to time by the Director.

5.7.2 During the period of the contract, no contractual changes are permitted, unless approved in writing by the Director.

5.7.3 The State reserves the right to separately procure individual requirements that are the subject of the contract during the contract term, when deemed by the Director to be in the State's best interest.

### 5.8 ITEMS ORDERED AND DELIVERED

Distribution and Support Services is authorized to order and **the contractor/contractors is/are** authorized to ship only those items covered by the contracts resulting from this RFP. If a review of orders placed by the Using Agency [Agencies] reveals [reveal] that material other than that covered by the contract has been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director in the termination of the contract or in the award of any subsequent contract. The Director may take such steps as are necessary to have the items returned by the Agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price.

The contract involves items, which are necessary for the continuation of ongoing critical State services. Any delay in delivery of these items would disrupt State services and would force the State to immediately seek alternative sources of supply on an emergency basis. Timely delivery is critical to meeting the State's ongoing needs.

## 5.9 NUTRITIONAL DATA SHEETS

If requested by the State, the contractor must furnish nutritional data sheets to the using agency.

## 5.10 REMEDIES FOR NON-PERFORMANCE

In the event that the contractor fails to comply with any material contract requirement, the Director may take steps to terminate the contract in accordance with the State administrative code. In this event, the Director may authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting contractor's price either being deducted from any monies due the defaulting contractor or being an obligation owed the State by the defaulting contractor.

5.11 All products must conform in every respect to the standards and regulations established by Federal and New Jersey State laws.

5.12 All products shall be manufactured and packaged under modern sanitary conditions in accordance with good commercial practice.

5.13 All products are to be packaged in sizes as specified in this RFP and shall be packaged in such a manner as to insure delivery in first class condition and properly marked for identification. All shipments must be comprised of original cartons associated with the commercial industry represented by the actual product contained within each carton. Deliveries containing re-used, re-labeled, re-worked or alternate cartons are subject to rejection by DSS at the contractor's expense.

5.14 All weights are net weights. DSS official weight scales are maintained by the Quality Assurance Unit and shall be used to record weight data. DSS weights shall govern.

5.15 All products are subject to final acceptance at point of delivery. Rejected shipments are the responsibility of the contractor and must be removed from DSS premises at contractor expense.

5.16 Product offered shall be of the latest season's pack available as of the effective (start) date of the contract. References for determining latest season's pack and shelf life are:

5.16.1 USDA Seasonal Marketing Guide for Fresh Fruits and Vegetables (Latest Edition).

5.16.2 USDA Handbook-Usual Planting and Harvesting Date in Principal Producing Areas (Latest Edition).

5.16.3 USDA Handbook-Fruits and Tree Nuts: Blooming, Harvesting and Harvesting Dates (Latest Edition).

5.16.4 USDA File Code:145-A-3: Requirements for "Latest Season Pack".

5.16.5 Department of Defense (DOD) Publication - DOD 4145.19-R-1 Storage and Materials Handling.

Contractor/packers will be required to make such records available to the USDA inspector/grader as may be necessary to document and confirm the month and year of pack. General statements, such as a letter from the contractor/packer indicating that the product is of "latest season pack", will not be acceptable unless the month and year of the pack is included in such letter or statement.

5.17 If circumstances beyond the control of the contractor may possibly result in a late delivery, it is the responsibility of the contractor to immediately make the details known to DSS in writing: DSS, P.O. Box 234, West Trenton, New Jersey 08625; Fax: (609) 530-4582. DSS reserves the right to cancel all or part of any such order and purchase the item or items elsewhere, charging any price increase to the contractor.

5.18 If the contractor fails to deliver by the specified delivery date, DSS reserves the right to cancel the portion of the order which the contractor has failed to deliver within the specified time and to purchase that item or items elsewhere, charging the increase in price and cost of handling, if any, to the contractor. In the event of a contract cancellation for cause, the State reserves the right to cancel all outstanding orders.

5.19 The State reserves the right to test the delivered product during the contract term to ensure that it meets the contract requirements. If the product fails to meet contract requirements, the delivery shall be rejected and must be replaced within a period of time considered reasonable by DSS. If said replacement is not made, DSS reserves the right to purchase product elsewhere, charging any increase in price or handling to the contractor.



## 5.20 DELIVERIES

Items must be stacked on 48" X 40" four (4) way grocery pallets before delivery will be accepted at the Using Agency when applicable.

The cargo section of the delivery vehicle must be totally free of garbage, refuse, trash and other cargo matter that may be directly involved in the development of pathogenic or toxigenic micro organisms that could possibly cause undesirable or unhealthy deterioration of the product.

The cargo section of any delivery vehicle must be free of all obnoxious odors that may immigrate into the product or the product packaging rendering the product unusable.

Items that are floor loaded upon delivery must be transferred to 48" X 40" four (4) way grocery pallet by the carrier truck driver before delivery will be accepted.

Items that are delivered on other than 48" x 40" four (4) way grocery pallets must be transferred to acceptable pallets by carrier truck driver before delivery is accepted.

Pallet exchange is possible (where applicable).

Segregation of product is required.

Palletization or re-palletization will be the sole responsibility of the delivering carrier, and no additional charges will be paid by the Using Agency for this procedure.

Full pallets must be broken down to a maximum 65 inches in height by the carrier driver (where applicable).

Standards for height and block patterns can be obtained by calling DSS and/or the Using Agency prior to delivery.

Damaged goods upon delivery:

- Shipments which contain damaged goods may be either partially accepted (with damaged goods rejected) or totally rejected depending on severity of the damage.

- The carrier truck driver will bear sole responsibility for any "re-working" of palletized damaged goods and for the removal of any damaged goods from acceptable goods. Damaged goods will be rejected and returned to carrier after removal from acceptable goods. The Using Agency or DSS will not be responsible for any charges for this procedure. This will apply to all carriers and all deliveries. It is the responsibility of the contractor to communicate these requirements to the carriers that they employ for deliveries to the Using Agency.

## 5.21 REQUIRED BLOCK PATTERNS:

Cases of 6/#10 cans must be palletized in 8 block, 7 high configuration before delivery can be accepted.

Cases other than 6/#10 cans must be configured with an interlocking block pattern, which must be consistent throughout the load for like items. Stretch wrapping or taping is required for all palletized loads.

Palletized loads should be built to a maximum height of 51" for frozen products and 65" for non-frozen products.

DSS standards for height & block patterns can be obtained by calling the receiving dock at (609) 530-3314 prior to delivery.

## 5.22 NOT APPLICABLE TO THIS PROCUREMENT

## 5.36 PERFORMANCE BOND

A performance bond is not required for this procurement.

## 5.37 CLAIMS

All claims asserted against the State by the contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1.1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq..

## 5.38 REQUIREMENTS OF EXECUTIVE ORDER 134

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Executive Order 134 was signed on September 22, 2004 ("EO 134"). Pursuant to the requirements of EO 134, the terms and conditions set forth in this section are material terms of any contract resulting from this RFP:

### 5.38.1 DEFINITIONS

For the purpose of this section, the following shall be defined as follows:

a) Contribution – means a contribution reportable as a recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act." P.L. 1973, c. 83 (C.19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Through December 31, 2004, contributions in excess of \$400 during a reporting period were deemed "reportable" under these laws. As of January 1, 2005, that threshold was reduced to contributions in excess of \$300.

b) Business Entity – means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction. It also includes (i) all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate; (ii) any subsidiaries directly or indirectly controlled by the business entity; (iii) any political organization organized under 26 U.S.C.A. 527 that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv) if a business entity is a natural person, that person's spouse or child, residing in the same household.

### 5.38.2 BREACH OF TERMS OF EXECUTIVE ORDER 134

It shall be a breach of the terms of the contract for the Business Entity to (i) make or solicit a contribution in violation of this Order, (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or to any State or county party committee; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of EO 134; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of EO 134; or (viii) directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of EO 134.

### 5.38.3 CERTIFICATION AND DISCLOSURE REQUIREMENTS

a) The State shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the

transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor, or to any State or county political party committee during certain specified time periods

b) Prior to awarding any contract or agreement to any Business Entity, the Business Entity proposed as the intended awardee of the contract shall submit the Certification and Disclosure form, certifying that no contributions prohibited by Executive Order 134 have been made by the Business Entity and reporting all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the mean of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required form and instructions, available for review on the Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.htm#eo134> , shall be provided to the intended awardee for completion and submission to the Purchase Bureau with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Contract, the intended awardee shall submit to the Division, in care of the Purchase Bureau Buyer, the Certification and Disclosure(s) within five (5) business days of the State's request. Failure to submit the required forms will preclude award of a contract under this RFP, as well as future contract opportunities.

c) Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the contract, and any extension(s) thereof, at the time any such contribution is made. The required form and instructions, available for review on the Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.htm#eo134> , shall be provided to the intended awardee with the Notice of Intent to Award.

#### **5.38.4 STATE TREASURER REVIEW**

The State Treasurer or his designee shall review the Disclosures submitted pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended awardee, prior to award, or during the term of the contract, by the contractor. If the State Treasurer determines that any contribution or action by the contractor constitutes a breach of contract that poses a conflict of interest in the awarding of the contract under this solicitation, the State Treasurer shall disqualify the Business Entity from award of such contract.

## **6.0 PROPOSAL EVALUATION/CONTRACT AWARD**

6.1 For a product bid that has been determined to be in compliance with this RFP, the contract shall be awarded on the basis of the following criteria, not necessarily listed in the order of importance:

6.1.1 Price

6.1.2 Experience of the bidder

6.1.3 The bidder's past performance under similar contracts, including if applicable, the Division's vendor performance database.

6.2 Line item award[s] shall be made for all items except for lines #00015 through #00021 which will be awarded to the overall low bidder for this group with reasonable promptness by written notice to that responsible bidder(s), whose bid proposal(s), conforming to this RFP, is(are) most advantageous to the State, price, and other factors considered. Any or all bid proposals may be rejected when the State Treasurer or the Director determines that it is in the public interest so to do.

## **6.3 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL**

After the submission of bid proposals, unless requested by the State, contact with the State is limited to status inquiries only and such inquiries are only to be directed to the buyer. Any further contact or information about the proposal to the buyer or any other State official connected with the solicitation will be considered an impermissible supplementation of the bidder's bid proposal.

A bidder may be required to give an oral presentation to the Evaluation Committee concerning its bid proposal. The Evaluation Committee may also require a bidder to submit written responses to questions regarding its bid proposal.

The purpose of such communication with a bidder, either through an oral presentation or a letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its bid proposal. Original bid proposals submitted, however, cannot be supplemented, changed, or corrected in any way. No comments regarding other bid proposals are permitted. Bidders may not attend presentations made by their competitors.

It is within the Evaluation Committee's discretion whether to require a bidder to give an oral presentation or require a bidder to submit written responses to questions regarding its bid proposal. Action by the Evaluation Committee in this regard should not be construed to imply acceptance or rejection of a bid proposal. The assigned buyer will be the sole point of contact regarding any request for an oral presentation or clarification.

## **7.0 ATTACHMENTS, SUPPLEMENTS AND APPENDICES**

### **7.2 APPENDICES**

1. [New Jersey Standard Terms and Conditions](#)

## APPENDIX 1 - NJ STATE STANDARD TERMS AND CONDITIONS

### STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS

- I. Unless the bidder is specifically instructed otherwise in the Request for Proposal, the following terms and conditions will apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in the Request for Proposal (RFP) and should be read in conjunction with same unless the RFP specifically indicates otherwise. If a bidder proposes changes or modifications or takes exception to any of the State's terms and conditions, the bidder must so state specifically in writing in the bid proposal. Any proposed change, modification or exception in the State's terms and conditions by a bidder will be a factor in the determination of an award of a contractor purchase agreement.
- II. All of the State's terms and conditions will become a part of any contract(s) or order(s) awarded as a result of the Request for Proposal, whether stated in part, in summary or by reference. In the event the bidder's terms and conditions conflict with the State's, the State's terms and conditions will prevail, unless the bidder is notified in writing of the State's acceptance of the bidder's terms and conditions.
- III. The statutes, laws or codes cited are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.
- IV. If awarded a contract or purchase agreement, the bidder's status shall be that of any independent principal and not as an employee of the State.

#### 1. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS

- 1.1 **BUSINESS REGISTRATION** - Effective September 1, 2004, pursuant to an amendment to N.J.S.A. 52:32-44, State and local entities (including the Division of Purchase and Property) are prohibited from entering into a contract with an entity unless the contractor has provided a copy of its business registration certificate (or interim registration) as part of its bid submission. Failure to submit a copy of the Business Registration Certificate within the bid proposal may be cause for rejection of the bid proposal.  
  
The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State. This requirement shall apply to all contracts awarded on and after September 1, 2004. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.htm>
- 1.2 **ANTI-DISCRIMINATION** - All parties to any contract with the State of New Jersey agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A.10:5-1 et seq. and N.J.S.A.10:5-31 through 10:5-38, and all rules and regulations issued there under.
- 1.3 **PREVAILING WAGE ACT** - The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.26 et seq. is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The bidder's signature on this proposal is his guarantee that neither he nor any subcontractors he might employ to perform the work covered by this proposal has been suspended or debarred by the Commissioner, Department of Labor for violation of the provisions of the Prevailing Wage Act.
- 1.4 **AMERICANS WITH DISABILITIES ACT** - The contractor must comply with all provisions of the Americans With Disabilities Act (ADA), P.L 101-336, in accordance with 42 U.S.C. 12101 et seq.
- 1.5 **THE WORKER AND COMMUNITY RIGHT TO KNOW ACT** - The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the Act.
- 1.6 **OWNERSHIP DISCLOSURE** - Contracts for any work, goods or services cannot be issued to any corporation or partnership unless prior to or at the time of bid submission the bidder has disclosed the names and addresses of all its owners holding 10% or more of the corporation or partnership's stock or interest. Refer to N.J.S.A. 52:25-24.2.
- 1.7 **COMPLIANCE - LAWS** - The contractor must comply with all local, state and federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.
- 1.8 **COMPLIANCE - STATE LAWS** - It is agreed and understood that any contracts and/or orders placed as a result of this proposal shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the STATE OF NEW JERSEY.

- 1.9 **COMPLIANCE - CODES** - The contractor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement. The contractor will be responsible for securing and paying all necessary permits, where applicable.

## 2. **LIABILITIES**

- 2.1 **LIABILITY - COPYRIGHT** - The contractor shall hold and save the State of New Jersey, its officers, agents, servants and employees, harmless from liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of his contract.
- 2.2 **INDEMNIFICATION** - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract. This indemnification obligation is not limited by, but is in addition to the insurance obligations contained in this agreement.
- 2.3 **INSURANCE** – The contractor shall secure and maintain in force for the term of the contract liability insurance as provided herein. The Contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof, naming the State as an additional insured and which must contain the proviso that the insurance provided in the certificate shall not be canceled for any reason except after thirty days written notice to:

STATE OF NEW JERSEY  
Purchase Bureau – Bid Ref. #

The insurance to be provided by the contractor shall be as follows:

- a. a Commercial General Liability policy as broad as the standard coverage forms in use in the State of New Jersey which shall not be circumscribed by any endorsements limiting the breadth of coverage.

The limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit.

- b. Automobile liability insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit.
- c. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

\$1,000,000 BODILY INJURY, EACH OCCURRENCE  
\$1,000,000 DISEASE EACH EMPLOYEE  
\$1,000,000 DISEASE AGGREGATE LIMIT

## 3. **TERMS GOVERNING ALL PROPOSALS TO NEW JERSEY PURCHASE BUREAU**

- 3.1 **CONTRACT AMOUNT** - The estimated amount of the contract(s), when stated on the Advertised Request for Proposal form, shall not be construed as either the maximum or minimum amount which the State shall be obliged to order as the result of this Request for Proposal or any contract entered into as a result of this Request for Proposal.
- 3.2 **CONTRACT PERIOD AND EXTENSION OPTION** - If, in the opinion of the Director of the Division of Purchase and Property, it is in the best interest of the State to extend a contract entered into as a result of this Request for Proposal, the contractor will be so notified of the Director's Intent at least 30 days prior to the expiration date of the existing contract. The contractor shall have 15 calendar days to respond to the Director's request to extend the contract. If the contractor agrees to the extension, all terms and conditions of the original contract, including price, will be applicable.

### 3.3 **BID AND PERFORMANCE SECURITY**

- a. Bid Security - If bid security is required, such security must be submitted with the bid in the amount listed in the Request for Proposal, see N.J.A.C. 17: 12- 2.4. Acceptable forms of bid security are as follows:
1. A properly executed individual or annual bid bond issued by an insurance or security company authorized to do business in the State of New Jersey, a certified or cashier's check drawn to the order of the Treasurer, State of New Jersey, or an irrevocable letter of credit drawn naming the Treasurer, State of New Jersey as beneficiary issued by a federally insured financial institution.
  2. The State will hold all bid security during the evaluation process. As soon as is practicable after the completion of the evaluation, the State will:
    - a. Issue an award notice for those offers accepted by the State;

- b. Return all bond securities to those who have not been issued an award notice.

All bid security from contractors who have been issued an award notice shall be held until the successful execution of all required contractual documents and bonds (performance bond, insurance, etc. If the contractor fails to execute the required contractual documents and bonds within thirty (30) calendar days after receipt of award notice, the contractor may be found in default and the contract terminated by the State. In case of default, the State reserves all rights inclusive of, but not limited to, the right to purchase material and/or to complete the required work in accordance with the New Jersey Administrative Code and to recover any actual excess costs from the contractor. Collection against the bid security shall be one of the measures available toward the recovery of any excess costs.

- b. Performance Security - If performance security is required, the successful bidder shall furnish performance security in such amount on any award of a term contractor line item purchase, see N.J.A.C. 17: 12- 2.5. Acceptable forms of performance security are as follows:
  - 1. The contractor shall be required to furnish an irrevocable security in the amount listed in the Request for Proposal payable to the Treasurer, State of New Jersey, binding the contractor to provide faithful performance of the contract.
  - 2. The performance security shall be in the form of a properly executed individual or annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey, a certified or cashier's check drawn to the order of the Treasurer, State of New Jersey, or an irrevocable letter of credit drawn naming the Treasurer, State of New Jersey as beneficiary issued by a federally insured financial institution.

The Performance Security must be submitted to the State within 30 days of the effective date of the contract award and cover the period of the contract and any extensions thereof. Failure to submit performance security may result in cancellation of contract for cause pursuant to provision 3.5b,1, and nonpayment for work performed.

- 3.4 VENDOR RIGHT TO PROTEST - INTENT TO AWARD** - Except in cases of emergency, bidders have the right to protest the Director's proposed award of the contract as announced in the Notice of Intent to Award, see N.J.A.C. 17:12-3.3. Unless otherwise stated, a bidder's protest must be submitted to the Director within 10 working days after receipt of written notification that his bid has not been accepted or that an award of contract has been made. In the public interest, the Director may shorten this protest period, but shall provide at least 48 hours for bidders to respond to a proposed award. In cases of emergency, stated in the record, the Director may waive the appeal period. See N.J.A.C. 17: 12- 3 et seq.

### **3.5 TERMINATION OF CONTRACT**

- a. For Convenience

Notwithstanding any provision or language in this contract to the contrary, the Director may terminate at any time, in whole or in part, any contract entered into as a result of this Request for Proposal for the convenience of the State, upon no less than 30 days written notice to the contractor.

- b. For cause:

- 1. Where a contractor fails to perform or comply with a contract, and/or fails to comply with the complaints procedure in N.J.A.C. 17: 12-4.2 et seq., the Director may terminate the contract upon 10 days notice to the contractor with an opportunity to respond.
- 2. Where a contractor continues to perform a contract poorly as demonstrated by formal complaints, late delivery, poor performance of service, short-shipping etc., so that the Director is repeatedly required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq. the Director may terminate the contract upon 10 days notice to the contractor with an opportunity to respond.

- c. In cases of emergency the Director may shorten the time periods of notification and may dispense with an opportunity to respond.

- d. In the event of termination under this section, the contractor will be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

- 3.6 COMPLAINTS** - Where a bidder has a history of performance problems as demonstrated by formal complaints and/or contract cancellations for cause pursuant to 3.5b a bidder may be bypassed for this award. See N.J.A.C. 17:12-2.8.

- 3.7 EXTENSION OF CONTRACT QUASI-STATE AGENCIES** - It is understood and agreed that in addition to State Agencies, Quasi-State Agencies may also participate in this contract. Quasi-State Agencies are defined in N.J.S.A. 52:27B-56.1 as any agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

- 3.8 EXTENSION OF CONTRACTS TO POLITICAL SUBDIVISIONS, VOLUNTEER FIRE DEPARTMENTS AND FIRST AID SQUADS, AND INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION - N.J.S.A. 52:25-16.1** permits counties,



municipalities and school districts to participate in any term contract(s), that may be established as a result of this proposal.

N.J.S.A. 52:25-16.2 permits volunteer fire departments, volunteer first aid squads and rescue squads to participate in any term contract(s) that may be established as a result of this proposal.

N.J.S.A. 52:25-16.5 permits independent institutions of higher education to participate in any term contract(s) that may be established as a result of this proposal, provided that each purchase by the Independent Institution of higher education shall have a minimum cost of \$500.

In order for the State contract to be extended to counties, municipalities, school districts, volunteer fire departments, first aid squads and independent institutions of higher education the bidder must agree to the extension and so state in his bid. The extension to counties municipalities, school districts, volunteer fire departments, first aid squads and Independent Institutions of higher education must be under the same terms and conditions, including price, applicable to the State.

**3.9 EXTENSIONS OF CONTRACTS TO COUNTY COLLEGES - N.J.S.A. 18A:64A - 25. 9** permits any college to participate in any term contract(s) that may be established as a result of this proposal.

**3.10 EXTENSIONS OF CONTRACTS TO STATE COLLEGES - N.J.S.A. 18A:64- 60** permits any State College to participate in any term contract(s) that may be established as a result of this proposal.

**3.11 SUBCONTRACTING OR ASSIGNMENT** - The contract may not be subcontracted or assigned by the contractor, in whole or in part, without the prior written consent of the Director of the Division of Purchase and Property. Such consent, if granted, shall not relieve the contractor of any of his responsibilities under the contract.

In the event the bidder proposes to subcontract for the services to be performed under the terms of the contract award, he shall state so in his bid and attach for approval a list of said subcontractors and an Itemization of the products and/or services to be supplied by them.

Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the State.

**3.12 MERGERS, ACQUISITIONS** - If, subsequent to the award of any contract resulting from this Request for Proposal, the contractor shall merge with or be acquired by another firm, the following documents must be submitted to the Director, Division of Purchase & Property.

- a. Corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices.
- b. State of New Jersey Bidders Application reflecting all updated information including ownership disclosure, pursuant to provision 1.5.
- c. Vendor Federal Employer Identification Number.

The documents must be submitted within thirty (30) days of completion of the merger or acquisition. Failure to do so may result in termination of contract pursuant to provision 3.5b.

If subsequent to the award of any contract resulting from this Request for Proposal, the contractor's partnership or corporation shall dissolve, the Director, Division of Purchase & Property must be so notified. All responsible parties of the dissolved partnership or corporation must submit to the Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment should be made until all parties to the dissolved partnership or corporation submit the required documents to the Director.

**3.13 PERFORMANCE GUARANTEE OF BIDDER** - The bidder hereby certifies that:

- a. **The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.**
- b. All equipment supplied to the State and operated by electrical current is UL listed where applicable.
- c. All new machines are to be guaranteed as fully operational for the period stated in the Request For Proposal from time of written acceptance by the State. The bidder will render prompt service without charge, regardless of geographic location.
- d. Sufficient quantities of parts necessary for proper service to equipment will be maintained at distribution points and service headquarters.

- e. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice.
- f. During the warranty period the contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract.
- g. All services rendered to the State shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval by the State's using agency is rendered.

**3.14 DELIVERY GUARANTEES** - Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the Request for Proposal.

The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice.

Items delivered must be strictly in accordance with the Request for Proposal.

In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the Request for Proposal, the using agency may be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor failing to meet his commitments.

**3.15 DIRECTOR'S RIGHT OF FINAL BID ACCEPTANCE** - The Director reserves the right to reject any or all bids, or to award in whole or in part if deemed to be in the best interest of the State to do so. The Director shall have authority to award orders or contracts to the vendor or vendors best meeting all specifications and conditions in accordance with N.J.S.A. 52:34-12. Tie bids will be awarded by the Director in accordance with N.J.A.C.17:12-2.1D.

**3.16 BID ACCEPTANCES AND REJECTIONS** - The provisions of N.J.A.C. 17:12-2.9, relating to the Director's right, to waive minor elements of non-compliance with bid specifications and N.J.A.C. 17: 12- 2.2 which defines causes for automatic bid rejection, apply to all proposals and bids.

**3.17 STATE'S RIGHT TO INSPECT BIDDER'S FACILITIES** - The State reserves the right to inspect the bidder's establishment before making an award, for the purposes of ascertaining whether the bidder has the necessary facilities for performing the contract.

The State may also consult with clients of the bidder during the evaluation of bids. Such consultation is intended to assist the State in making a contract award which is most advantageous to the State.

**3.18 STATE'S RIGHT TO REQUEST FURTHER INFORMATION** - The Director reserves the right to request all information which may assist him or her in making a contract award, including factors necessary to evaluate the, bidder's financial capabilities to perform the contract. Further, the Director reserves the right to request a bidder to explain, in detail, how the bid price was determined.

**3.19 MAINTENANCE OF RECORDS** - The contractor shall maintain records for products and/or services delivered against the contract for a period of three (3) years from the date of final payment. Such records shall be made available to the, State upon request for purposes of conducting an audit or for ascertaining information regarding dollar volume or number of transactions.

**4. TERMS RELATING TO PRICE QUOTATION**

**4.1 PRICE FLUCTUATION DURING CONTRACT** - Unless otherwise noted by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract.

In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director of Purchase and Property must be notified, in writing, of any price reduction within five (5) days of the effective date.

Failure to report price reductions will result in cancellation of contract for cause, pursuant to provision 3.5b.1.

**4.2 DELIVERY COSTS** - Unless otherwise noted in the Request for Proposal, all prices for items in bid proposals are to be submitted F.O.B. Destination. Proposals submitted other than F.O.B. Destination may not be considered. Regardless of the method of quoting shipments, the contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to the State's using agency or designated purchaser.

F.O.B. Destination does not cover "spotting" but does include delivery on the receiving platform of the ordering agency at any destination in the State of New Jersey unless otherwise specified. No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at contractor's convenience when a single shipment is ordered. The weights and measures of the State's using agency receiving the shipment shall govern.

**4.3 C.O.D. TERMS** - C.O.D. terms are not acceptable as part of a bid proposal and will be cause for rejection of a bid.

**4.4 TAX CHARGES** - The State of New Jersey is exempt from State sales or use taxes and Federal excise taxes. Therefore, price quotations must not include such taxes. The State's Federal Excise Tax Exemption number is 22-75-0050K.

**4.5 PAYMENT TO VENDORS** - Payment for goods and/or services purchased by the State will only be made against State Payment Vouchers. The State bill form in duplicate together with the original Bill of Lading, express receipt and other related papers must be sent to the consignee on the date of each delivery. Responsibility for payment rests with the using agency which will ascertain that the contractor has performed in a proper and satisfactory manner in accordance with the terms and conditions of the award. Payment will not be made until the using agency has approved payment.

For every contract the term of which spans more than one fiscal year, the State's obligation to make payment beyond the current fiscal year is contingent upon legislative appropriation and availability of funds.

The State of New Jersey now offers State contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State Agency's use of the p-card, however, is optional. P-card transactions do not require the submission of either a contractor invoice or a State payment voucher. Purchasing transactions utilizing the p-card will usually result in payment to a contractor in three days. A Contractor should take note that there will be a transaction processing fee for each p-card transaction. To participate, a contractor must be capable of accepting MasterCard. For more information, call your bank or any merchant services company.

**4.6 NEW JERSEY PROMPT PAYMENT ACT** - The New Jersey Prompt Payment Act N.J.S.A. 52:32-32 et seq. requires state agencies to pay for goods and services within sixty (60) days of the agency's receipt of a properly executed State Payment Voucher or within sixty (60) days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the state prior to processing any payments for goods and services accepted by state agencies. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest will not be paid until it exceeds \$5.00 per properly executed invoice.

Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

**4.7 RECIPROCITY** - In accordance with N.J.S.A. 52:32-1.4 and N.J.A.C. 17: 12- 2. 13, the State of New Jersey will invoke reciprocal action against an out-of-State bidder whose state or locality maintains a preference practice for their bidders.

**5. CASH DISCOUNTS** - Bidders are encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts, but discounts will not be considered in determining the lowest bid.

a. Discount periods shall be calculated starting from the next business day after the recipient has accepted the goods or services received a properly signed and executed State Payment Voucher form and, when required, a properly executed performance security, whichever is latest.

b. The date on the check issued by the State in payment of that Voucher shall be deemed the date of the State's response to that Voucher.

**6. STANDARDS PROHIBITING CONFLICTS OF INTEREST** - The following prohibitions on vendor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

a. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52: 13D-13g.

b. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.

c. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52: 130-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

d. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

- e. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.
- f. **The provisions cited above in paragraph 6a through 6e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 6c.**

## **7. NOTICE TO ALL BIDDERS SET-OFF FOR STATE TAX NOTICE**

Please be advised that, pursuant to P.L. 1995, c. 159, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.